

3661. Adulteration and misbranding of so-called Swiss milk cocoa. U. S. v. 26 Cases, More or Less, of Swiss Milk Cocoa. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 5788. I. S. No. 9641-h. S. No. C-55.)

On July 2, 1914, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 26 cases, each containing 2 dozen jars of a certain article of food designated as Swiss milk cocoa, remaining unsold in the original unbroken packages at Chicago, Ill., alleging that the product had been shipped on May 8, 1914, and transported from the State of Pennsylvania into the State of Illinois, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "½ pound net weight. Croft's Swiss Milk Cocoa. Manufactured under Swiss Process by Croft & Allen Co. Philadelphia, U. S. A. Guaranteed under Food and Drug Act, June 30, 1906. Serial No. 3373. Copyright 1901 by Croft & Allen Co. (Representations of farm house, pasture, cow and milkmaid)."

Adulteration of the product was alleged in the libel for the reason that another article, to wit, sugar, had been mixed and packed therewith so as to reduce, lower and injuriously affect its quality and strength, and further, for the reason that another article, to wit, sugar, had been substituted wholly or in part for the genuine milk cocoa. Misbranding was alleged for the reason that each of the retail packages bore a label in the words and figures set forth above, which said statement, borne upon the label aforesaid, was false and misleading, in that it represented to the purchaser that the article of food aforesaid was a genuine Swiss milk cocoa, whereas, in truth and in fact, another article, to wit, sugar, had been mixed and packed with the article so as to reduce, lower and injuriously affect the quality and strength of the article of food aforesaid. Misbranding was alleged for the further reason that said statement, borne upon each of the labels aforesaid, was false and misleading in that the words "Swiss Milk Cocoa," and the words "Manufactured under Swiss process" represented that the product was manufactured in a foreign country, to wit, Switzerland, whereas, in truth and in fact, it was manufactured in the city of Philadelphia, State of Pennsylvania, United States of America. Misbranding was alleged for the further reason that the product was an imitation of, and was offered for sale under the distinctive name of, another article, to wit, genuine milk cocoa, in that the article of food aforesaid contained an insufficient quantity of milk solids to entitle it to be designated as milk cocoa.

On September 21, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the United States marshal obliterate the label appearing on each of the individual jars containing the article of food designated as Swiss milk cocoa, and cause to be prepared and placed upon each of said jars a label containing the words "Sweetened Cocoa," printed in letters not less than three-fourths inch in height, and the words "Manufactured by Croft & Allen Co., Philadelphia, U. S. A.," in letters not less than one-half inch in height, and further, that he remove from each of the individual jars the paper wrapper surrounding each of them, which said wrapper bore the words "Croft's Swiss Milk Cocoa. Manufactured under Swiss process," and that after such labeling the product should be sold by said marshal at public sale to the highest bidder for cash.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., March 26, 1915.